



BOULT • CUMMINGS
CONNERS • BERRY PLC

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@boultcummings.com

SEP 10 2001 11:07

EXECUTIVE SECRETARY

September 10, 2001

David Waddell, Esq.
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay
Telephone Service as Required by FCC Docket No. 96-128
Docket No. 97-00409

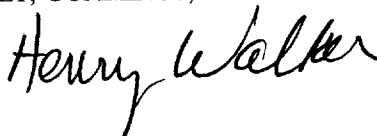
Dear David:

The filing ("Motion to Compel") made on Friday, September 7, 2001, in the above-captioned proceeding did not include the Attachment ("Declaration of Don Wood"). Please accept the attached substitute filing and discard the original filing.

Copies have been forwarded to parties.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker

HW/nl
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: ALL TELEPHONE COMPANIES)
TARIFF FILINGS REGARDING)
RECLASSIFICATION OF PAY TELEPHONE) Docket No. 97-00409
SERVICE)

**MOTION TO COMPEL UNITED TELEPHONE-SOUTHEAST
TO RESPOND TO DISCOVERY**

The Tennessee Payphone Association ("TPOA") asks the Hearing Officer to compel United Telephone-Southeast, Inc. ("United") to respond fully to the First Set of Data Requests filed by TPOA. As explained below and, more fully, in the attached statement by Don Wood, United has failed to provide payphone specific and PTAS-specific cost data needed by TPOA to establish the direct costs of PTAS service.

Specifically, TPOA asks that United be compelled to respond directly and completely to questions 18(c), 11(a) and 11(b). Question 18(c) asks for the "average length of a loop used to provide payphone service" in each wire center. United's response states, "The same answer as given for Question 18(a)." But the answer to 18(a) is merely a worksheet file containing the average loop length of all voice grade loops in each wire center. United did not provide payphone loop lengths as requested. Similarly, questions 11(a) and 11(b) request costs "specific to PTAS service." United's answer to question 11(a) refers to "payphone costs" not the costs of PTAS service. United's answer is not responsive to the question. Question 11(b) asks how the company calculated PTAS-specific costs. United's answer states that the "PTAS Loop Cost" used in the company's cost study is based on "average loop costs for each United wire center"

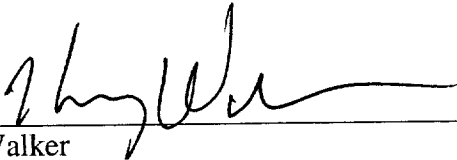
rather than on PTAS-specific costs. Here again, United's answer is not responsive to the question. As to each of these questions, United should either provide the payphone specific and PTAS specific cost information requested by TPOA or forthrightly explain why the company is not providing that information.

Because this Motion involves only three questions and only directly affects two parties, TPOA and United, TPOA asks that the Hearing Officer require United to respond to the Motion within a few days, no more than a week. Thereafter, if the Hearing Officer believes that a pre-hearing conference is necessary to discuss the Motion, TPOA asks that the conference be conducted as soon as practical, perhaps by telephone.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____


Henry Walker
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2001, a copy of the foregoing document was served on the parties of record, via hand delivery or U.S. First Class Mail addressed as follows:

Richard Collier, Esquire
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Janet M. Kleinfelter, Esquire
Assistant Attorney General
Financial Division
425 Fifth Avenue North, 2nd Floor
Nashville, Tennessee 37243-0500

T.G. Pappas, Esquire
Bass, Berry & Sims
2700 First American Center
Nashville, Tennessee 37219-8888

James Wright, Esquire
United Telephone-Southeast
14111 Capitol Blvd.
Wake Forest, NC 27587

Jon Hastings, Esquire
Boult, Cummings, Connors & Berry
414 Union Street, Suite 1600
Nashville, Tennessee 37219-8062

Jack W. Robinson, Jr., Esquire
Gullett, Sanford, Robinson & Martin
230 Fourth Avenue North
Third Floor
Nashville, Tennessee 37219-8888

Guy M. Hicks, Esquire
BellSouth Telecommunications, Inc.
Suite 2101
333 Commerce Street
Nashville, Tennessee 37201-3300

Richard Tettelbaum, Esquire
Citizens Telecom
1400 16th Street, N.W., Suite 500
Washington, D.C. 20036


Henry Walker

DECLARATION OF DON J. WOOD

I, Don J. Wood, having been duly sworn do hereby say as follows:

1. My name is Don J. Wood. My business address is 4625 Alexander Drive, Suite 125, Alpharetta, Georgia 30022. I am a principal in the firm of Wood & Wood, an economic and financial consulting firm. I provide economic and regulatory analysis of the telecommunications and related convergence industries, with an emphasis on economic policy, development of competitive markets, and cost of service issues.
2. I have testified before state regulators in Colorado, Florida, Louisiana, North Carolina, Ohio, Oregon, Puerto Rico, South Carolina, Massachusetts, and here in Tennessee regarding the application of the cost-based pricing requirements set forth in the FCC's *Payphone Orders*.¹ In this context, I have conducted a detailed analysis of the cost studies submitted by BellSouth Telecommunications, Inc. ("BellSouth") and Sprint/United Telephone-Southeast, Inc. ("Sprint") in this proceeding. I have also reviewed Sprint's responses (provided July 26, 2001) to data requests propounded by the Tennessee Payphone Owners Association ("TPOA").
3. A primary objective of my analysis has been to determine whether Sprint has conducted a cost study that gives the Authority the information necessary to make a determination regarding the compliance of Sprint's PTAS rates with the

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 20,541 (1996) ("*Report and Order*"); Order on Reconsideration, 11 FCC Rcd 21,233 (1996) ("*Order on Reconsideration*"); Order, 12 FCC Rcd 20,997 (Comm. Car. Bur. 1997) ("*Bureau Waiver Order*"); Order, 12 FCC Rcd 21,370 (Comm. Car. Bur. 1997) ("*Second Bureau Waiver Order*"). (Collectively, the "*Payphone Orders*.")

applicable standard. As a part of this effort, I have attempted to determine if Sprint has conducted a cost study that accurately calculates the cost that Sprint incurs when providing a PTAS loop to an independent payphone provider (“IPP”).

4. Sprint has not provided cost results that are specific to PTAS service. According to its response to TPOA Data Request No. 19 (a) and (b), Sprint acknowledges that its reported cost of a PTAS loop will be overstated or understated if PTAS loops have characteristics (specifically length) different those of the “average” loop in each wire center.
5. According to its response to TPOA Data Request No. 17 (c), the cost study that Sprint has performed is not based on the characteristics of PTAS loops, but instead is based on the characteristics of “all voice grade loops” within a given wire center.
6. In Data Request No. 18 (c), TPOA asked Sprint to provide information that represents a primary cost driver of loop costs (loop length), and to provide information that is specific (and relevant) to loops used to provide PTAS service. In response, Sprint merely referred TPOA to its response to part (a) of Data Request No. 18. Sprint’s response to 18 (a) consists solely of a worksheet file containing the average loop length “for all voice grade loops” within a given wire center.
7. The methodology utilized by Sprint to conduct its cost study stands in stark contrast to that utilized by BellSouth and previously approved by the Authority.

In its cost study, BellSouth utilized loop characteristics that were specific to payphone services in order to develop cost-based rates for those services.

8. After calculating only the average cost of “all voice grade loops within a given wire center including residential, business (including payphones) and mutli-line business lines,” Sprint attempts an after-the fact adjustment to reduce its overstatement of PTAS loop costs. Specifically, Sprint aggregates, based on the number of loops in each wire center used to provide payphone services, its calculation of the cost of “all voice grade loops.” As described above, however, Sprint has acknowledged in its response to TPOA Data Request No. 19 that if the average length of a loop used to provide PTAS service *in a given wire center* is less than the average length of loops used to provide “all voice grade” services *in that wire center*, then the cost calculated by the Sprint cost study for PTAS service will be overstated. The lack of required accuracy in Sprint’s calculation of loop costs for each wire center cannot be remedied by additional averaging into a statewide cost and rate.
9. For this reason, Sprint’s cost study methodology, which studies only the average cost of loops used to provide all voice grade services, is inconsistent with both the requirements set forth in the FCC’s *Payphone Orders* and the Authority’s previous decision in this docket regarding the BellSouth cost studies. TPOA has requested, in Data Request 18 (c), information that would permit it to develop a proxy of Sprint’s cost to provide a PTAS loop. No other information provided by Sprint to date can serve as a substitute for this information.

10. Sprint has not provided costs that are specific to PTAS for an additional reason. The requirements for cost-based rates set forth in the FCC's *Payphone Orders* make it necessary for Sprint to justify PTAS rates with costs that are specific to PTAS. In Data Request No. 11 (a) and (b), TPOA requested that Sprint describe how it has calculated costs that are specific to PTAS service. Sprint did not respond to this request, but instead described how it believed that the costs produced by its cost study are specific to "payphone" service.
11. Sprint clarified in its response to TPOA Data Request 6 (d) that its use of the phrase "payphone" service is not limited to services provided to IPPs, but instead includes "all payphone lines services provided in United serving territory," presumably including access lines utilized by its affiliated payphones. If the loop characteristics for PTAS loops in a given wire center are different than the characteristics for loops used to provide service to Sprint-affiliated payphones, Sprint's cost study methodology will fail to accurately calculate costs that are specific to PTAS.
12. TPOA Data Request No. 11 (a) and (b) asks Sprint to explain in detail how the costs that it has calculated are either specific to PTAS or an appropriate non-PTAS specific cost. In part (a) Sprint responded that these costs were "payphone" specific, but did not respond to the request regarding PTAS specific costs. In part (b) Sprint described why it believes that the costs it has presented are specific to payphone service, but has not provided a response to the request for a description of how the costs are PTAS specific. No other information provided by Sprint to date can serve as a substitute for this information.